

Remarks

Claims 9 and 10 have been amended to address the rejection under 35 U.S.C. 112, second paragraph.

The indication in the Office action that former claim 11 would be allowable if rewritten in independent form is noted with appreciation. Former claim 11, including the base and intervening claims, has been rewritten as new independent claim 13.

Claims 9 and 10 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,794,537 to Zaerr. It is respectfully submitted that claims 9 and 10 are not anticipated by Zaerr.

Zaerr discloses a tri-level, multi-unit railroad freight car 30 having a cargo well 59 with a cargo well floor 100, a movable lower deck 104 and a movable upper deck 106. The decks 104 and 106 "are adjustable in height to provide different amounts of vertical clearance above, between, and below them as is illustrated in FIGS. 9, 10 and 11." (Col. 7, ll. 1-4.) "Adjacent each end of each car unit 32 or 34, a hinged portion 150 of the lower motor vehicle-carrying deck 104 can be raised by as much as about 4 feet to an inclined position" (col. 8, ll. 38-40) "during loading of motor vehicles into the cargo well 59 to provide ample overhead clearance" (col. 9, ll. 16-18).

Zaerr does not disclose transporting motor vehicles from a first deck to a second deck over a bridge plate extending between said first and second decks after pivoting the end section, as recited in claim 9. More specifically, Zaerr does not disclose transporting motor vehicles over the hinged portion 150 of the lower deck 104 when the hinged portion 150 is in a pivoted position.

Instead, Zaerr only discloses transporting motor vehicles on the lower deck 104 and upper deck 106 when the decks are "fastened securely and tightly to the side posts 122 by bolts 128 or other releasable but tight fasteners so that the motor vehicle-carrying decks 104 and 106 are incorporated structurally in and add rigidity to the entire car body 52 as well as being solidly supported by the side walls 46." (Col. 8, l. 1-6.) As evident from Fig. 3, Zaerr discloses such bolts 128 for use with

the non-pivoting portion of the lower deck 104. Zaerr discloses supporting the hinged portion 150 of the lower deck 104 in its upwardly-pivoted arrangement, illustrated in Fig. 3, using a winch line or lifting cable 160. There is no disclosure that such a winch line or lifting cable 160 would be capable of supporting a vehicle and no suggestion that such support would be desirable. Indeed, the purpose of the hinged portion 150 of the lower deck 104 of Zaerr is, as discussed above, merely to provide overhead clearance between the lower deck 104 and the cargo well 59.

With respect to claim 10, Zaerr does not disclose operating a pivoting assembly for pivoting an end section of a first deck between a raised, generally horizontal position and lowered, angled position. Instead, Zaerr discloses pivoting the hinged portion 150 of the lower deck 104 between a horizontal portion and a raised, angled position, as illustrated in Fig. 3. Given the pivot axis 156 of the hinge 152 illustrated in Fig. 3 of Zaerr, the hinged portion 150 of the lower deck 104 would be unable to be pivoted to a lowered, angled position as required by claim 10.

For the reasons set forth above, claims 9-11 are believed to be allowable over the cited references, and reconsideration of claims 9-11 and allowance of claims 9-11 and 13 are respectfully requested.

Please charge any fees required by this amendment to Deposit Account No. 06-1135.

Respectfully submitted,

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